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*Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108*

Advisory Opinion

May 11, 2001
AO-01-07

Lynn Cohen
16 Fletcher Road
Westford, MA 01866

Re: E-mail Activity

Dear Ms. Cohen:

This letter is in response to your April 24, 2001 request for guidance as to whether ballot question committees or other organizations have to disclose costs associated with election-related e-mail activity by members and, if so, how to calculate such costs.

You have indicated that people associated with your ballot question committee, Citizens for the Community Preservation Act ("Citizens for the CPA"), sent a form e-mail to contributors and members of other organizations, such as the League of Women Voters and the Westford Conservation Trust Historical Society, to remind them to "Vote Yes" in support of the Community Preservation Act at the May 1, 2001 town election. This e-mail also sought to have the recipient pass the message along to other voters. You have indicated that Citizens for the CPA did not receive any outside mailing or membership lists for this e-mail campaign.

QUESTION

Does a ballot question committee or other organization need to report costs associated with this type of e-mail activity on either its campaign finance report or a Form CPF M 22?

RESPONSE

No. The e-mail activity described would constitute a personal service and would not have to be disclosed under the campaign finance law. See AO-93-32. The campaign finance law excludes "personal services" and incidental payments by those rendering such services from the definition of "contributions" which would have to be reported by a political committee in campaign finance reports. See M.G.L. c. 55, § 1. Therefore persons who send out e-mails as described above, just like volunteers

who gather signatures, watch polls, write press releases or perform other services on their own time, are not making reportable contributions to a committee.

For the same reason, this activity would not involve the making of an expenditure, pursuant to M.G.L. c. 55, § 22, if undertaken by individual supporters of a private organization.¹ In addition, communications by a membership organization to its members are not generally within the scope of the campaign finance law. See M-98-04, “*Question and Answer Guide for Corporations, Associations, Organizations and Other Groups Making Expenditures to Influence Ballot Questions.*”

Notwithstanding the foregoing, you should be aware that, under some circumstances, a committee or organization might nevertheless have reportable expenditures resulting from an e-mail campaign. For example, reimbursements or compensation paid to individuals providing e-mail services would be subject to disclosure. See M-98-04. Additionally, mailing lists are considered items of value. If a committee or organization purchases or otherwise receives a mailing list or membership list from an outside organization to use in connection with their e-mail campaign, it must be reported as an expenditure if purchased or, if it was donated, the fair market value of the list must be reported as an in-kind contribution. See AO-90-30.

In sum, there is no reporting requirement where supporters or members of a political committee or organization e-mail contributors, members and friends on their own time to influence the vote on a ballot question. As the result of this conclusion, there is no need for this office to issue guidance on how to calculate costs associated with this e-mail activity.

Please note that this opinion is issued on the basis of your letter and your conversations with OCPF staff and solely within the context of the campaign finance law. I encourage you to contact us in the future if you have further questions regarding any aspect of the campaign finance law.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan
Director

Enclosure (M-98-04)

¹ Section 22 of chapter 55 requires reports disclosing campaign activity to be filed by the treasurer of any “corporation, association, organization or other group of persons, other than a political committee organized under § 5, which has given, paid, expended or contributed, or promised to give, pay, expend or contribute any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters.”